

**ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE RENUMBERING AND
AMENDING AND CREATING A RULE**

To amend 42.05 (2), 45.06 (intro.) and 47.08 (3); renumber and amend Ins 50.30 (1); and to create Ins 50.30 (title) and (2) to (5), Wis. Adm. Code, relating to actuarial opinions and summaries and affecting small businesses.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)

1. Statutes interpreted:

Sections. 600.01, 601.42, 601.465, Stats.

2. Statutory authority:

Sections 601.42 and 601.465 and ch. 618, Stats.

3. Explanation of the OCI's authority to promulgate the rule under these statutes:

This rule requires reports and other information relating to actuarial opinions prepared and filed for property and casualty insurers, including nondomestic insurers licensed under ch. 618, Stats. Section 601.42, Stats., establishes the statutory authority to require reports and submission of other information from any person, including a licensed insurer, subject to regulation under the Insurance Code. Section 601.465, Stats., establishes OCI's authority to retain the reports and information as privileged and confidential.

4. Related Statutes or rules:

The rule is intended to supplement the information required to be filed with insurer's annual financial statements under ch. Ins 50, Wis. Adm. Code.

5. The plain language analysis and summary of the rule:

Section Ins 50.30, Wis. Adm. Code, currently requires licensed property and casualty insurers, among others, that file a NAIC financial statement to also file an actuarial opinion. Under current law OCI may also ask an insurer to file an actuarial summary, actuarial report and work papers. This rule requires all domestic property and casualty insurers that are required to file an actuarial opinion to also file an actuarial opinion summary, and to prepare an actuarial report and supporting work papers. The rule also notes that OCI, as under current law, may require a licensed non-domestic property and casualty insurer to file a summary, actuarial report and supporting work papers. The rule also notes that OCI may require a domestic property and casualty insurer to file the actuarial report and supporting work papers. The actuarial summary, actuarial report and supporting work papers support the actuarial opinion, which is a public document, however the rule notes the required actuarial summary and, if required to be filed, the actuarial report and supporting work papers, with their detailed proprietary information, may be retained as confidential by OCI under s. 601.465, Stats. The rule is based on the NAIC Property and Casualty Actuarial Opinion Model Law ("NAIC Model").

6. Summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule:

None

7. Comparison of similar rules in adjacent states as found by OCI:

All of the adjacent state insurance departments are considering seeking legislation or a rule or are in the process of promulgating a rule to put in effect the NAIC Model. However none have yet adopted the NAIC Model. Accordingly the current status is:

Iowa: None

Illinois: None

Minnesota: None

Michigan: None

8. A summary of the factual data and analytical methodologies that OCI used in support of the rule and how any related findings support the regulatory approach chosen for the rule:

This rule is based on the NAIC Property and Casualty Actuarial Opinion Model Law. It reflects the experience and recommendations of insurance financial regulators relating to analysis of the subject matter of the currently required actuarial opinion.

9. Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114:

There are only five mutual insurers that will be subject to the rule that are "small businesses." This is based on an analysis of financial statements filed by property and casualty insurers conducted by the bureau of financial analysis and examination. The assessment of fiscal and economic impact on these insurers described under paragraphs 10 and 11 is based on bureau of financial analysis and examination professional assessment, and the bureau's past experience in the analysis and examination of actuarial reports and opinions.

10. If these changes may have a significant fiscal effect on the private sector, the anticipated costs that will be incurred by private sector in complying with the rule:

The changes will not have a significant fiscal effect on the private sector. The limited fiscal effect rule on the insurers will be due to the cost of producing and submitting the Actuarial Opinion Summary. The Actuarial Opinion Summary will illustrate the difference between the insurer's recorded loss and loss adjustment expense reserves and the actuary's point estimates and range of reasonable estimates. This information is currently required to be included in the opining actuary's report, so including it in the Actuarial Opinion Summary will not involve significant additional work or expense.

Any additional analysis in the Summary is expected to be rarely required, and likewise to be already conducted by the actuary.

11. A description of the Effect on Small Business:

This rule will not have a significant economic impact on a substantial number of small businesses. There are only five mutual insurers that will be subject to the rule that are "small businesses." The economic impact on these insurers will be insignificant for the reasons outlined under paragraphs 9 and 10.

12. Agency contact person:

A copy of the full text of the rule changes, analysis and fiscal estimate may be obtained from the WEB sites at: **<http://oci.wi.gov/ocirules.htm>**

or by contacting Inger Williams, OCI Services Section, at:

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The rule changes are:

SECTION 1. Section Ins 42.05 (2) is amended to read:

42.05 (2) If a managing general agent establishes loss reserves, the insurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the managing general agent. This is in addition to any required loss reserve certification required under s. Ins. 50.30 (1).

SECTION 2. Section Ins 45.06 (intro.) is amended to read:

45.06 **Reporting requirements.** (intro.) In addition to any loss reserve certification required under s. Ins 50.30 (1), a controlled insurer shall annually, prior to April 1, file with the commissioner:

SECTION 3. Section Ins 47.08 (3) is amended to read:

47.08 (3) A reinsurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the reinsurance intermediary-manager if the reinsurance intermediary-manager establishes loss reserves. This opinion is in addition to any other required loss reserve certification required under s. Ins 50.30 (1).

SECTION 4. Section Ins 50.30 is renumbered Ins 50.30 (1) and amended to read:

50.30 (1) ~~Actuarial opinion required.~~ An insurer shall file with the annual financial statement required under s. Ins 50.20 a statement of actuarial opinion from a qualified actuary in accordance with the appropriate national association of insurance commissioners annual statement instructions.

SECTION 5. Section Ins 50.30 (title) and (2) to (5) are created to read:

50.30 (title) **Actuarial opinion required.**

(2) A domestic property and casualty insurer required to file an actuarial opinion under sub. (1) shall do all of the following:

- (a) Submit an actuarial opinion summary, written by the insurer's appointed actuary, with the financial statement and actuarial opinion. The actuarial opinion summary shall be filed in

accordance with the appropriate national association of insurance commissioners property and casualty annual statement instructions and shall be considered as a document supporting the actuarial opinion required in sub. (1).

(b) Prepare an actuarial report and supporting work papers as required by the appropriate national association of insurance commissioners property and casualty annual statement instructions to support each actuarial opinion. The office of the commissioner of insurance may require the insurer to file the actuarial report or supporting work papers. The insurer is required to file the actuarial report or supporting work papers only if the insurer is asked to do so by the office of the commissioner of insurance.

(3) An insurer licensed but not domiciled in this state shall provide the office of the commissioner of insurance an actuarial opinion summary and actuarial report and supporting work papers described under sub. (2) upon request.

(4) (a) Nothing in this section restricts the office of the commissioner of insurance from engaging a qualified actuary under s. 601.42 (7) or 601.43, Stats., at the expense of the insurer to review the actuarial opinion filed under sub. (1) and the basis for the opinion or to review or to prepare or create the actuarial opinion, actuarial report or supporting work papers.

(b) 1. The office of the commissioner of insurance under subs. (2) and (3) requires filing of documents, materials or other information pursuant to s. 601.42, Stats. Documents, materials or other information in the possession or control of the office of the commissioner of insurance that are considered an actuarial report, supporting work papers or actuarial opinion summary provided in support of the actuarial opinion, and any other material provided by the insurer to the office of the commissioner of insurance in connection with the actuarial report, supporting work papers or actuarial opinion summary, are subject to s. 601.465, Stats. The office of the commissioner of insurance, under s. 601.465, Stats., may refuse to disclose and prevent any person from disclosing, the documents, material or other information in response to a request for production, deposition, subpoena, or otherwise.

2. Subd. 1. may not be construed to limit the commissioner's authority to release the documents, material or other information, including to an actuarial board for counseling and discipline, nor may this section be construed to limit the commissioner's authority to use the

documents, materials or other information in furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

3. Nothing in this section restricts the commissioner from doing any of the following:
 - a. Sharing the documents, materials or other information subject to subd. 1. with state, local, federal and international regulatory agencies, with the national association of insurance commissioners and its affiliates and subsidiaries, or with state, local, federal and international law enforcement authorities.
 - b. Receiving documents, materials or information, from the national association of insurance commissioners and its affiliates and subsidiaries, or from state, local, federal and international regulatory agencies or law enforcement, and treating those documents, materials and information as confidential as permitted under s. 601.465, Stats.

(5) This section may be enforced under ss. 601.41, 601.64, 601.65, Stats., or ch. 645, Stats., or any other enforcement provision of chs. 600 to 646, Stats.

SECTION 6. These changes will take effect on the first day of the month after publication, as provided in s. 227.22(2)(intro.), Stats.

SECTION 7. This rule first applies to financial statements and actuarial opinions filed for calendar year 2005 and to summaries and reports related to those statements and opinions.

Dated at Madison, Wisconsin, this 9th of December, 2005.

Clare Stapleton Concord
Deputy Commissioner of Insurance

FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect

☒ ORIGINAL

☐ UPDATED

☐ CORRECTED

☐ SUPPLEMENTAL

LRB Number

Amendment No. if Applicable

Bill Number

Administrative Rule Number

INS 5030
Subject

actuarial opinion and summary

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
None

Annualized Costs:		Annualized Fiscal impact on State funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$ 0	\$ -0
(FTE Position Changes)		(0 FTE)	(-0 FTE)
State Operations - Other Costs		0	-0
Local Assistance		0	-0
Aids to Individuals or Organizations		0	-0
TOTAL State Costs by Category		\$ 0	\$ -0
B. State Costs by Source of Funds		Increased Costs	Decreased Costs
GPR		\$ 0	\$ -0
FED		0	-0
PRO/PRS		0	-0
SEG/SEG-S		0	-0
C. State Revenues		Increased Rev.	Decreased Rev.
Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
GPR Taxes		\$ 0	\$ -0
GPR Earned		0	-0
FED		0	-0
PRO/PRS		0	-0
SEG/SEG-S		0	-0
TOTAL State Revenues		\$ 0 None	\$ -0 None

NET ANNUALIZED FISCAL IMPACT

	STATE	LOCAL	
NET CHANGE IN COSTS	\$ None 0	\$ None 0	
NET CHANGE IN REVENUES	\$ None 0	\$ None 0	

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Authorized Signature:	Telephone No.	Date June 20, 2005

FISCAL ESTIMATE

☒ ORIGINAL

☐ UPDATED

☐ CORRECTED

☐ SUPPLEMENTAL

LRB Number

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Bill Number

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INS 5030

Subject

actuarial opinion and summary

Fiscal Effect

State: ☒ No State Fiscal Effect

Check columns below only if bill makes a direct appropriation
or affects a sum sufficient appropriation.

☐ Increase Existing Appropriation

☐ Increase Existing Revenues

☐ Decrease Existing Appropriation

☐ Decrease Existing Revenues

☐ Create New Appropriation

☐ Increase Costs - May be possible to Absorb
Within Agency's Budget ☐ Yes ☐ No

☐ Decrease Costs

Local: ☒ No local government costs

1. ☐ Increase Costs

☐ Permissive ☐ Mandatory

2. ☐ Decrease Costs

☐ Permissive ☐ Mandatory

3. ☐ Increase Revenues

☐ Permissive ☐ Mandatory

4. ☐ Decrease Revenues

☐ Permissive ☐ Mandatory

5. Types of Local Governmental Units Affected:

☐ Towns ☐ Villages ☐ Cities

☐ Counties ☐ Others _____

☐ School Districts ☐ WTCS Districts

Fund Sources Affected

☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

Affected Chapter 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

Long-Range Fiscal Implications

None

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Agency

Insurance

Authorized Signature:

Telephone No.

Date (mm/dd/ccyy)

June 20, 2005